

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

FILED

SEP 28 2007

SOUTHERN DIVISION

R. Johnson
CLERK

UNITED TRANSPORTATION UNION,

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CIV 04-4101

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Plaintiff,

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ORDER OF DISMISSAL

vs.

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DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION,

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Defendant.

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In response to this Court's August 27, 2007, Order (Doc. 100) requesting that each party submit a status report of what action has been taken in this case since March 30, 2007, and what future action the party anticipates being taken, Plaintiff submitted a status report (Doc. 101) stating:

UTU does not intend to renew its motion for summary judgment at this time since it has no evidence of any further violations of the status quo requirements under the Railway Labor Act with respect to the operation of business trains with managers by Dakota, Minnesota & Eastern Railroad Corporations ("DM&E") or Cedar American, or of any intent on the part of DM&E to violate the status quo regarding this issue in the future.

Defendant Dakota, Minnesota & Eastern Railroad Corporation (DM&E) then filed a Motion to Dismiss (Doc. 102) on September 5, 2007. Plaintiff has not responded to the motion and counsel for Plaintiff has advised that it does not intend to resist the Motion to Dismiss. Accordingly,

IT IS ORDERED:

- (1) that the Preliminary Injunction entered in this action on August 6, 2004, is vacated; and
- (2) that the above action is dismissed without prejudice.

Dated this 28th day of September, 2007.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Tracy Maguire DEPUTY